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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/241,450 | 02/02/1999 | JOHN O. RUID | 1-8380 | 8758 |

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EXAMINER

GUARRIELLO, JOHN J

ART UNIT PAPER NUMBER

1771

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/241,450

Applicant(s)

RUID ET AL.

Examiner

John J. Guarriello

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/21/2003, 9/10/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 11-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 29-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8,9/03 6) ☐ Other: _____

DETAILED ACTION

15. The Examiner acknowledges the response and extension of time of 8/21/2003, the IDS of 8/21/2003, and the IDS of 9/21/2003.

Claim Rejections - 35 USC § 112

16. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

17. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, line 1, it is not clear what comes after "acrylic", there seems to be a missing term or phrase which does not complete the claim.

Claim Rejections - 35 USC § 103

18. Claims 1-10, 29-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levine et al. 4,389,587 in view of Schakel et al. 5,567,504.

Levine describes an insulation sleeving which when laid flat would correspond to the composite of the claimed invention, thus it would solve the same problem as the claimed invention and would not be non-analogous art. Levine describes an insulating layer of fiberglass, (column 2, lines 9-11) which corresponds to the claimed body layer of the claimed invention. Levine describes the polymer coating which is an acrylic polymer (which corresponds to the cover layer of the claimed invention) which is impregnated (corresponding to the embedding of the claimed invention), (column 2, lines 35-68; column 3, lines 24-26). Levine describes the thickness of the layer to be about 0.02 to 0.13 cm which is about 0.2 mm to about 1.3 mm, (column 3, lines 1-18) which encompasses the claimed invention. Levine differs because it is silent about the particular polymeric latex.

Schakel describes a glass fiber duct board which is coated with a polymeric acrylic latex coating (column 4, lines 62-63) on the surfaces, corresponding to the claimed cover layer of the claimed invention, (see abstract; column 2, lines 16-19). Schakel describes

the thickness of the coating is determined by the geometry, thus thickness of the coating could be adjusted.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the acrylic polymeric latex coating of Schakel as the cover layer on the body layer of Levine with the thickness parameter adjusted for geometry motivated with the expectation that the improved composite would exhibit better thermal properties of insulation as noted in Levine, (column 3, lines 8-9). Moreover, the uniformity of the coating is obvious to one of ordinary skill since the reference describes adjustment.

Applicant's arguments regarding the rejection of record were considered but with the new grounds of rejection they are moot.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 571-272-1476. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris , can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is (703-872-9306).


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571-272-0994).



John J. Guarriello:gj

Patent Examiner

January 15, 2004



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
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